



## DEPARTMENT OF PERSONNEL AND ADMINISTRATION

### State Personnel Board and State Personnel Director

### STATE PERSONNEL BOARD RULES AND PERSONNEL DIRECTOR'S ADMINISTRATIVE PROCEDURES

#### 4 CCR 801-1

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The purpose of the State Personnel Board Rules and Director's Administrative Procedures is to establish a comprehensive system of rules and procedures for employees within the state personnel system. In order to distinguish them from Director's procedures, rules promulgated by the State Personnel Board are noted as "Board Rules". Rules adopted by the Board and procedures adopted by the Director require the formal rulemaking process defined in the Administrative Procedures Act.

#### Preamble

Unless otherwise noted in a specific provision, the entire body of State Personnel Board Rules were repealed and new permanent rules were adopted by the State Personnel Board on April 19, 2005, pursuant to a Statement of Basis and Purpose dated April 19, 2005. The entire body of the State Personnel Director's Administrative Procedures were repealed and new permanent procedures were adopted by the State Personnel Director on May 5, 2005, pursuant to a Statement of Basis and Purpose dated May 5, 2005. Such rules and procedures were effective July 1, 2005.

This version reflects an emergency rulemaking by the State Personnel Director as follows: [5-4.\(A\)](#), [5-7.\(Table\)](#), and [5-17.\(A\)](#). These emergency administrative procedures are effective [July 1, 2020](#) and are in effect for 120 days.

## Chapter 5 - Time Off

### Accrued Paid Leave

5-4. Annual leave is for an employee's personal needs and use is subject to the approval of the appointing authority. The appointing authority may establish periods when annual leave will not be allowed, or shall be taken, based on business necessity. These periods cannot create a situation where the employee does not have a reasonable opportunity to use requested leave that will be subject to forfeiture. If the department cancels approved leave that results in forfeiture, the forfeited hours shall be paid before the end of the fiscal year. (5/1/10)

- A. Due to the declaration of a state of emergency by the Governor, as defined in the Colorado Disaster Emergency Act, if annual leave was denied, cancelled or the employee was not given reasonable opportunity to use the requested annual leave, resulting in annual leave being subject to forfeiture under rule, up to eighty (80) hours of leave over the maximum accrual allotment may be carried over to the next fiscal year in lieu of payment. The over accrued annual leave amount (up to eighty (80) hours) will roll over to the next fiscal year on July 1 and will be available to the employee to use. This amount will not carry over for a second fiscal year. Any annual leave hours over the maximum accrual amount not carried over in this Rule 5-4.(A) and subject to forfeiture shall be paid out to the employee before the end of the fiscal year. (07/01/2020) During the declaration of a state of emergency by the Governor, as defined in the Colorado Disaster Emergency Act, when leave was denied or the employee was not given reasonable opportunity to use the requested leave, annual leave up to eighty (80) hours over the maximum accrual allotment may be carried over at the discretion of the department and employee. The over accrued annual leave amount will roll over to the next fiscal year on July 1 and is available to the employee to use. This amount will not carry over for a second fiscal year. Accrued annual leave in excess of the eighty (80) hours over the maximum accrual allotment that the department cancelled shall be paid out to the employee. (04/01/2020)

5-7. Table ~~(02/2017)~~(078/01/2020)

Monthly Leave Earning, Accrual, Payout, and Restoration for Permanent Employees							
Annual Leave				Sick Leave****			
Years of Service*	Hrs. / Mon.	Max Accrual **	Payout	Hrs. / Mon.	Max Accrual ***	Restoration	Payout
Years 1 – 5 (01 – 60 Months)	8	192 hours	Upon termination or death, unused leave is paid out up to the maximum accrual rate.	6.66	360 hours	Previously accrued sick leave up to three hundred and sixty (360) hours is restored when eligible for reinstatement or reemployment.	Upon death or if eligible to retire, one quarter (¼) of unused leave paid out to the maximum accrual rate. PERA's age and service requirements under the Defined Benefit plan are applied regardless of the plan actually enrolled in.
Years 6 – 10 (61 – 120 Months)	10	240 hours					
Years 11 – 15 (121 – 180 Months)	12	288 hours					
Years 16 or Greater (181 or more Months)	14	336 Hours					
<p>* Years of service is computed from the 1st calendar day of the month following the hire date; except if the employee began work on the 1st working day of a month, include that month in the count. Employees with prior permanent state service, in or out of the state personnel system, earn leave based on the total whole months of service, excluding temporary assignments.</p> <p>** Over-accrued amounts are forfeited at the beginning of the new fiscal year (July 1st) <a href="#">except when Rule 5-4. A. is applicable.</a></p>				<p>*** Over-accrued sick leave up to eighty (80) hours is converted to annual leave each new fiscal year (July 1st) at a five to one (5:1) ratio (five (5) hours of sick converts to one (1) hour annual leave). An employee may have an individual maximum accrual that is greater than three hundred and sixty (360) hours if continuously employed in the state personnel system prior to 7/1/88. Maximum accrual for these employees is calculated by adding three hundred and sixty (360) hours to the leave balance on 6/30/88.</p>			
<p>**** <a href="#">During the declaration of a state of emergency by the Governor, as defined in the Colorado Disaster Emergency Act, sick leave balances may go negative up to forty (40) hours once all accrued sick, annual leave, and compensatory time is exhausted. Subsequent sick leave accruals will be credited to the negative balance. If an employee separates before the negative balance is recovered, it will be deducted from their final paycheck.</a></p>							
<b>General Provisions</b>							
<p>Employees shall be at work or on paid leave to earn monthly leave. Leave is credited on the last day of the month in which it is earned and is available for use on the first day of the next month, subject to any limitations elsewhere in Chapter 5, Time Off. A terminating employee shall be compensated for annual leave earned through the last day of employment.</p> <p>Part-time employees who work regular, non-fluctuating schedules earn leave on a prorated basis based on the percentage of the regular appointment, rounded to the nearest one, one hundredth (1/100) of an hour. Leave for part-time employees who work irregular, fluctuating schedules and full-time employees who work or are on paid leave less than a full month is calculated by dividing the number of hours paid by the number of work hours in the monthly pay period. The percentage is then multiplied by the employee's leave earning rate to derive the leave earned. Overtime hours are not included in leave calculations.</p>							

Leave payouts at separation are calculated using the annualized hourly rate of pay (annual salary divided by two thousand eighty (2080) hours for full-time employees), and employees are only eligible for the sick leave payout one (1) time - initial eligibility for retirement.

Forfeiture of leave as a disciplinary action or a condition of promotion, demotion, or transfer is not allowed.

Borrowing against any leave that may be earned in the future or "buying back" leave already used is not allowed, except during a declaration of a state of emergency by the Governor, as defined in the Colorado Disaster Emergency Act, as indicated above.

Use of annual leave cannot be required for an employee being laid off.

Make Whole: When an employee is receiving workers' compensation payments, accrued paid leave is used to make the employee's salary whole in an amount that is closest to the difference between the temporary compensation payment and the employee's gross base pay, excluding any pay differentials. Leave earning is not prorated when an employee is being made whole.

Short-Term Disability: Employees are required to use accrued paid leave during the thirty (30) day waiting period for short-term disability benefits, including the use of accrued annual leave and/or compensatory time once accrued sick leave has been exhausted. ~~When an employee is receiving short-term disability payments, accrued paid leave may be used to make the employee's salary whole in an amount that is closest to the difference between the short-term disability benefit payment and the employee's gross base pay, excluding any pay differentials. Leave earning is not prorated when an employee is being made whole.~~ When an employee is receiving short-term disability payments, the employee may choose to use accrued paid leave to make their salary whole in an amount this is closest to the difference between the short-term disability benefit payment and the employee's gross base pay, excluding any pay differentials. Employees who elect to be made whole will use accrued sick leave first, then annual leave or compensatory time as available. Employees shall not use negative sick leave to be made whole. Leave earning is not prorated when an employee is being made whole.

5-17. Unpaid leave may be approved by the appointing authority unless otherwise prohibited. The appointing authority may also place an employee on unpaid leave for unauthorized absences and may consider corrective and/or disciplinary action. Probationary and trial service periods are extended by the number of days on unpaid leave and may be extended for periods of paid leave. The amount of unpaid leave for employees paid on a monthly pay cycle is calculated based on the monthly salary multiplied by the number of unpaid leave hours divided by the number of hours in the pay period. The amount of unpaid leave for nonexempt employees paid on a biweekly pay cycle is calculated based on the hourly pay rate multiplied by the number of unpaid leave hours. The amount of unpaid leave for exempt employees paid on a biweekly pay cycle is calculated based on the biweekly salary multiplied by the number of unpaid leave hours divided by the number of hours in the pay period. (11/1/2019)

- A. Short-term disability (STD) leave is a type of unpaid leave of up to six (6) months while either state or PERA STD benefit payments are being made. To be eligible for this leave, employees shall have one (1) year of service and an application for the STD benefit shall be submitted within thirty (30) days of the beginning of the ~~absence~~ ~~absence or at least thirty (30) days prior to the exhaustion of all accrued sick leave~~. The employee shall also notify the department at the same time that a benefit application is submitted to the insurance provider. (078/01/2020)